

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K1/259

| | |
|--------------------------------|--|
| <u>Applicant</u> | The Scout Association of Hong Kong (SAHK) represented by Fotton Surveyors Limited |
| <u>Premises</u> | B/F (Portion) and G/F (Portion), Hong Kong Scout Centre (HKSC), 8 Austin Road, Tsim Sha Tsui, Kowloon |
| <u>Total Floor Area</u> | 1,977m ² (about) |
| <u>Lease</u> | Kowloon Inland Lot (KIL) 10973 commencing from 9.1.1990 to 30.6.2047 |
| <u>Plan</u> | Approved Tsim Sha Tsui Outline Zoning Plan (OZP) No. S/K1/28 |
| <u>Zoning</u> | “Government, Institution or Community” (“G/IC”) [Maximum building height (BH) of 90mPD or the height of the existing building, whichever is the greater.] |
| <u>Application</u> | Renewal of Planning Approval for Temporary Eating Place (Restaurant) for a Period of Three Years |

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary eating place (restaurant) at B/F (Portion) and G/F (Portion) of the HKSC at 8 Austin Road, Tsim Sha Tsui, Kowloon (the Premises) (**Plan A-1**) for a period of three years from 10.12.2019 to 9.12.2022. The HKSC falls within an area zoned “G/IC” on the approved Tsim Sha Tsui OZP No. S/K1/28 (**Plans A-1 and A-2**). According to the Notes of the OZP for the “G/IC” zone, ‘eating place (not elsewhere specified)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises is the subject of a previous application (No. A/K1/255) for temporary eating place (restaurant) which was approved with conditions by the Metro Planning Committee (the Committee) of the Board on 9.12.2016 on a temporary basis for a period of three years, instead of six years sought, until 9.12.2019. A shorter temporary approval was granted in order to review the possibility of accommodating other government, institution or community (GIC) uses at the Premises in the future. All approval conditions have been complied with. The Premises is currently used as a restaurant.

- 1.3 The Premises comprises the entrance at G/F and the restaurant at B/F (**Drawings A-1 to A-4**). The total gross floor area (GFA) is about 1,977m² (including 52m² at G/F and 1,925m² at B/F)¹. The main pedestrian access to the Premises is via the staircases at G/F fronting Austin Road while the Premises could also be accessed via two lifts (serving between B/F and 5/F) at the G/F lobby of the HKSC (**Drawings A-1 and A-2**).
- 1.4 According to the applicant, the scale and operation of the temporary eating place (restaurant) under the current application is the same as the previously approved scheme under application No. A/K1/255. With a seating capacity of 854 seats, the operation hour of the restaurant at the Premises is from 7:00 a.m. to 11:30 p.m. daily. 10 car parking spaces are provided in the HKSC, which is accessible via Scout Path off Austin Road (**Drawing A-1**). Two loading/unloading bays are located at B/F of the HKSC.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form and supplementary planning statement received on 29.8.2019 (**Appendix I**)
 - (b) Further information (FI) dated 6.9.2019 providing clarification on the justifications for the application* (**Appendix Ia**)
 - (c) FI dated 2.10.2019 providing responses to departmental and public comments* (**Appendix Ib**)

*Remarks: *FI accepted and exempted from publication and recounting requirement*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application as set out in **Appendices I, Ia** and **Ib** are summarised as follows:

No change in scale and operation

- (a) Without changing the scale and operation of the Premise as a temporary eating place, the application is only intended to allow operational flexibility for serving both the Scout members and the public including local residents, passers-by and tourists. A priority booking system will continue to be given to Scout members. The rental received from the restaurant is injected back to Scout Movements for youth development in Hong Kong.

No material change

- (b) There has been no material change in planning circumstances since the previous temporary planning approval. No adverse planning implication arising from the renewal application is anticipated. All the approval conditions have been complied with.

Sufficient parking spaces with no adverse traffic impact

- (c) The HKSC currently has a total of 529 car parking spaces and the utilisation rate in the past six months was around 65%. According to the Hong Kong

¹ According to the applicant's submission at **Appendix Ib**, the Premises has a GFA of 1,977m² or a net floor area of 1,846m²

Planning Standards and Guidelines (HKPSG), 10 car parking spaces should be provided for the eating place with an area of 1,977m². No adverse traffic impact induced by the subject restaurant was observed in the past three years and adverse traffic impact is not anticipated in the future. The traffic congestion in Austin Road and Scout Path has been prevailing for many years but is not attributed by the subject restaurant.

No adverse infrastructural impacts

(d) There would also be no adverse sewerage and drainage impacts resulted from the use under application.

Continue to serve as an eating place

(e) In any event, the Premises will remain part and parcel of the SAHK, as in the past, to serve as an eating place for its members².

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

4.1 Town Planning Board Guidelines No. 16 for ‘Application for Development/Redevelopment within “G/IC” zone for uses other than G/IC uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 16) is relevant to this application. The relevant extract of the Guidelines are as follows:

- (a) the proposed development should not adversely affect the normal operation of the existing GIC facilities within the “G/IC” site;
- (b) the proposed development should be compatible in land-use terms with the GIC uses on the site and the surrounding areas;
- (c) the proposed development should be sustainable in terms of the capacities of existing and planned infrastructure;
- (d) there should be adequate provision of parking and loading/unloading facilities to serve the development in accordance with HKPSG and to the satisfaction of Transport Department; and
- (e) the proposed development should not cause or be susceptible to adverse environmental impacts.

4.2 As the current application is for renewal of planning approval, planning considerations and assessments are made mainly based on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning

² According to the building plans approved in March 1993 and the Occupation Permit issued by the Building Authority on 23.6.1993, the Premises was approved for the use of scout canteen.

Conditions for Temporary Use or Development' (TPB PG-No. 34C). The relevant assessment criteria are summarised as follows:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

4.3 It is also indicated in TPB PG-No. 34C that under normal circumstances, the approval period for renewal should not be longer than the original validity period of the temporary approval. A streamlined approach is adopted and there is no need to undertake new technical assessments so long as there is no major change in planning circumstances.

5. Background

5.1 The lot was granted to the HKSA in 1990 for the purpose of the Scout Headquarters, bus terminus, telephone exchange and vehicle park. According to the Conditions of Grant, the HKSC should be 'a headquarters for the SAHK including assembly hall, gymnasium, offices, scout shop, hostel, dormitory, canteen, staff quarters and such other ancillary accommodation and facilities as shall be approved by the Director of Social Welfare' (now the Secretary for Home Affairs).

5.2 According to the building plans approved in March 1993 and the Occupation Permit issued by the Building Authority on 23.6.1993 (**Appendix II**), the Premises was approved for the use of scout canteen.

6. Previous Application

The Premises is the subject of a previous application (No. A/K1/255) for temporary eating place (restaurant) submitted by the same applicant. The application was approved with conditions on fire service requirements by the Committee on 9.12.2016 for a period of three years, instead of six years sought, in order to review the possibility of accommodating other GIC uses at the subject premises in the future. The major grounds of approval were that the temporary eating place was not incompatible with the surrounding area and no adverse impact was anticipated. The approval conditions have been complied with.

7. **Similar Application**

There is one similar application for restaurant (No. A/K1/174) within “G/IC” zone in Tsim Sha Tsui OZP. The application for restaurant with outdoor café for the Tsim Sha Tsui Promenade on government land adjoining New World Centre (**Plan A-1a**) was rejected by the Committee on 2.11.2001 on the grounds that the proposed development was not in line with the planning intention of the application site which was zoned “G/IC”; and there was insufficient information in the submission to demonstrate that the proposed development would integrate with the Tsim Sha Tsui Promenade Beautification Projection undertaken by the Government for this promenade. On 4.10.2002, the Board approved the application upon review mainly on the consideration that interfacing issues with the promenade could be resolved and approval conditions on submission of the design details of proposed restaurant and ancillary facilities, and submission and implementation of landscaping proposal were imposed. The application site was subsequently rezoned from “G/IC” to “Open Space” on the OZP.

8. **The Premises and Its Surrounding Areas (Plans A-1, A-1a, A-2 and A-5, and Site Photos on Plans A-3 to A-5)**

8.1 The Premises is:

- (a) located at part of B/F with an entrance at G/F of the 28-storey HKSC;
- (b) currently used as a restaurant; and
- (c) accessible via the entrance at G/F of the HKSC fronting Austin Road (**Plans A-3 and A-4**), or via the lifts at the G/F lobby of the HKSC.

8.2 Based on site inspection in September 2019, the current uses within the HKSC are summarised as follows:

| Floor | Current Uses |
|--|---|
| Basement (<i>Application Premises</i> at portion of B/F) | Eating place and loading/unloading area |
| G/F (<i>Application Premises</i> at portion of G/F) | Reception, lift lobby and staircases to B/F and cross-boundary coach terminus |
| UG/F | Lounge |
| 1/F to 4/F | Car park |
| 5/F | Car park and telephone exchange |
| 6/F to 7/F | Telephone exchange |
| 8/F | Scout clubhouse with catering facilities, Scout Centre and offices |
| 9/F to 11/F | Scout Centre and offices |
| 12/F | Mechanical rooms |
| 13/F | Offices and staff canteen |
| 14/F to 25/F | Guest rooms |

- 8.3 The surrounding areas have the following characteristics (**Plan A-5**):
- (a) surrounded by a mix of residential, commercial, educational and recreational development/uses;
 - (b) to the east and south is the Kowloon Park and further east is Tsim Sha Tsui Police Station;
 - (c) to the further southeast and southwest are the Kowloon Park Swimming Pool and two schools (i.e. Lai Chack Middle School and Canton Road Government Primary School) respectively; and
 - (d) to the north and west is a mix of commercial and residential uses including Victoria Towers, Chong Tak Building and TAL Building.

9. Planning Intention

- 9.1 The “G/IC” zone is intended primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.
- 9.2 According to the Explanatory Statement of the OZP, the HKSC is to be developed into a multi-purpose building accommodating a multi-storey car park, telephone exchange and cross-boundary bus terminus, and the Boy Scout Association Headquarters with hostels.

10. Comments from Relevant Government Bureau and Departments

- 10.1 The following government bureau and departments have been consulted and their comments are summarised as follows:

Policy Perspective

10.1.1 Comments of the Secretary for Home Affairs (SHA):

Home Affairs Bureau is the policy bureau supporting the private treaty grant for development of the HKSC. He has no in-principle objection to the application subject to no adverse comments from other relevant bureaux/departments.

Land Administration

10.1.2 Comments of the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) The concerned building falls within KIL 10973 which is held under Conditions of Grant No. 12085 dated 9.1.1990 as varied

or modified by a Modification Letter dated 7.4.1995 and a No-objection Letter dated 31.1.1997 (hereafter collectively referred to as 'the Conditions'). Special Condition (S.C.) No. (6) of the Conditions stipulates that the Grantee of the lot shall not erect or maintain on the lot any building or buildings other than the building or buildings comprising:

- (i) a headquarters for the SAHK including assembly hall, gymnasium, offices, scout shop, hostel, dormitory, canteen, staff quarters and such other ancillary accommodation and facilities as shall be approved by Director of Social Welfare (hereafter referred to as 'the Scout Headquarters');
 - (ii) a bus terminus having a GFA of not less than 2,300m²;
 - (iii) a telephone exchange including ancillary offices as shall be approved by the Director of Lands having a GFA of not less than 9,000m²; and
 - (iv) a multi-storey vehicle park.
- (b) S.C. No. (8)(a) of the Conditions also stipulates that the lot or any part thereof or any building or buildings erected or to be erected thereon shall not be used for any purpose other than accommodation for the Scout Headquarters, the Bus Terminus, the Telephone Exchange and the Vehicle Park.
- (c) The temporary eating place (restaurant) does not comply with S.C. Nos. (6)(i) and (8)(a). After the applicant had obtained the Board's permission for its previous planning application (No. A/K1/255), a temporary waiver to permit restaurant use at the Premises was approved by the LandsD for a fixed term of three years commencing on 1.3.2015 and thereafter quarterly subject to payment of waiver fee. The temporary use for eating place at the Premises is permitted under the said waiver.
- (d) The Conditions contain no provision for the Government to take over the Premises for other GIC uses.

Building Matters

10.1.3 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

He has no in-principle objection to the application subject to the conditions and requirements imposed by the BD being satisfactorily complied with at the restaurant licence application stage.

Traffic

10.1.4 Comments of the Commissioner for Transport (C for T):

- (a) It is noted that the application is for the renewal of a previous application No. A/K1/255 and no complaint about traffic caused by operation of the subject eating place has been received so far.
- (b) According to the HKSPG, 0.5 to 1 car parking space per 200m² GFA of conference and banquet facilities is required. Given that the subject eating place has a GFA of 1,977m², 10 car parking spaces shall be provided to fulfil the high-end requirement.
- (c) He has no comment on the application from the traffic engineering viewpoint.

Environment

10.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) No objection to the application from the environmental perspective.
- (b) Based on the information provided by the applicant, it is noted that the application is not expanding the capacity of the existing restaurant and there will be no change from the last approval with the same operation hours and seating capacity. Sewage will be discharged to the same sewerage system as per current configuration.
- (c) The applicant should ensure compliance with the requirements of relevant pollution control ordinances and guidelines. In particular, the applicant should implement the best practical control measures as set out in the 'Control of Oily Fume and Cooking Odour from Restaurants and Food Business' to minimise the oily fume and cooking odour emission.

Fire Safety

10.1.6 Comments of the Director of Fire Services (D of FS):

He has no in-principle objection to the application provided that the fire service installations and equipment installed thereat are properly maintained.

Other Aspects

10.1.7 Comments of the Director of Social Welfare (DSW):

As there are no natural lighting and natural ventilation in the Premises, it may not be suitable for the provision of elderly and other welfare facilities.

10.1.8 Comments of the Government Property Administrator (GPA):

As per the record in the Government Property Agency, there is no requirement of GIC facilities in the district which are suitable to be accommodated in the Premises.

10.2 The following government departments have no objection to /no comment on the application:

- (a) Chief Highway Engineer/Kowloon, Highways Department;
- (b) Director of Leisure and Cultural Services;
- (c) Chief Engineer/Kowloon, Water Supplies Department;
- (d) Chief Engineer/Mainland South, Drainage Services Department;
- (e) Director of Electrical and Mechanical Services;
- (f) Director of Food, Environment and Hygiene;
- (g) Commissioner of Police; and
- (h) District Officer (Yau Tsim Mong).

11. Public Comments Received During Statutory Publication Period

The application was published for public inspection on 6.9.2019. During the first three weeks of the statutory public inspection period, which ended on 27.9.2019, eight public comments submitted by TST Residents Concern Group, Designing Hong Kong Limited and individuals were received (**Appendices IIIa to IIIh**). The public comments mainly expressed objecting views to or general comments on the application, and their concerns are summarised as follows:

- (a) Land use compatibility – the Premises should be ancillary to the operation of the HKSC. The change of use to commercial (restaurant) cannot be justified and is not in line with the planning intention of the “G/IC” zone. It is also incompatible with the surrounding area which is predominantly occupied by school and residential developments. Approving the application would set an undesirable precedent.
- (b) Lack of GIC facilities – there are deficits of GIC facilities, particularly the elderly and child care facilities. The Premises should be put in meaningful GIC use to serve the public.
- (c) Discrepancy in floor area – the floor area (1,977m²) under the current application is larger than that under the previous planning (1,846m²).
- (d) Traffic congestion and vehicular access arrangement – the eating place at the Premises will pose traffic pressure to the already congested roads in the surroundings, particularly Austin Road and Scout Path. It is also located too close to the adjacent cross-boundary coach terminus, which is very busy and would attract many riders to the nearby streets. The sightline of the coach drivers would easily be affected by the pedestrians nearby.
- (e) Adverse impacts – the eating place would have adverse impacts on environmental, sewage, drainage and fire safety aspects.

- (f) Long approval period – the approval period should be shortened to one or two years so as to allow time for better planning and traffic arrangement.

12. Planning Considerations and Assessments

Renewal of the Temporary Planning Approval

12.1 The applicant seeks renewal of planning approval (Application No. A/K1/255) to continue the temporary eating place (restaurant) at the Premises for a period of three years from 10.12.2019 to 9.12.2022. Application No. A/K1/255 was approved with conditions for temporary eating place (restaurant) by the Committee for a period of three years until 9.12.2019. Since then, there has been no material change in the planning circumstances and surrounding land uses. All approval conditions of the previous planning approval have also been complied with. Besides, the scale and nature of the temporary eating place would remain the same as the previous planning approval. The approval period of three years sought is the same as the previous planning approval, which is considered appropriate.

Possibility of Alternative GIC Uses at the Premises

12.2 As mentioned in paragraph 6 above, a shorter temporary approval (three years instead of six years) was granted by the Committee under application No. A/K1/255 in order to review the possibility of accommodating other GIC uses at the Premises in the future. With reference to the HKPSG requirements, the planned provision for various community facilities in the Tsim Sha Tsui area is generally sufficient except for elderly services and facilities with standards of provision revised/reinstated in end 2018. In this regard, DSW considers that as there are no natural lighting and natural ventilation in the Premises, it may not be suitable for the provision of elderly and other welfare facilities. Moreover, GPA confirms that there is no requirement of GIC facilities in the district which are suitable to be accommodated in the Premises. From the land administration perspective, DLO/KW, LandsD advises that the Conditions under the Lease contain no provision for the Government to take over the Premises for other GIC uses. In fact, the applicant also states that in any event, the Premises will remain part and parcel of the SAHK, as in the past, to serve as an eating place for its members, and the rental received from the restaurant is injected back to Scout Movements for youth development in Hong Kong.

Technical Aspects

12.3 According to the applicant, sufficient car parking spaces are provided in the HKSC. Given that the scale of the restaurant under application is the same as the current operation, it is therefore not anticipated that there will be any significant adverse traffic, environmental, drainage, sewerage and fire safety impacts on the HKSC and the surrounding areas. On traffic aspect, C for T advises that no complaint about traffic caused by the operation of the subject eating place has been received so far and he has no comment on the application. Apart from this, all other concerned government departments consulted, including DEP, DSD and D of FS, have no objection to the application.

Complying with Criteria of Relevant Town Planning Board Guidelines

12.4 Based on the assessments above, the use under application complies with the assessment criteria of the TPB PG-No. 16 as mentioned in paragraph 4.1 above in terms of no adverse impacts on the operation of the HKSC, being compatible with the surrounding uses and no adverse impact on traffic, environment and infrastructure. The application also complies with the assessment criteria of the TPB PG-No. 34C as mentioned in paragraph 4.2 above in that there is no material change in planning circumstances of the surrounding areas since the previous temporary planning approval granted; and there is no adverse planning implication and no objection to/ adverse comments from the relevant government bureaux and departments.

Public Comments

12.5 Regarding the public comments received, the planning considerations and assessments in paragraphs 12.1 to 12.4 above concerning land use compatibility, GIC facilities, traffic and other technical impacts, and length of approval period, and the departmental comments in paragraph 10 above are relevant. On the discrepancy in floor area, the applicant has clarified in the FI (**Appendix 1b**) that the floor area under the previous and current application remains unchanged since 1,846m² refers to the net floor area while 1,977m² is the GFA.

13. Planning Department's Views

13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department has no objection to the application.

13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years from 10.12.2019 to 9.12.2022. The following advisory clauses are suggested for Members' reference:

Advisory clauses

The recommended advisory clauses are attached at **Appendix IV**.

13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

There are no strong justifications for the continuation of the use at the application premises.

14. Decision Sought

14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

| | |
|------------------------------|---|
| Appendix I | Application form and supplementary planning statement received on 29.8.2019 |
| Appendix Ia | Further information dated 6.9.2019 |
| Appendix Ib | Further information dated 2.10.2019 |
| Appendix II | Occupation permit of the HKSC |
| Appendix IIIa to IIIh | Public Comments |
| Appendix IV | Advisory clauses |
| Drawing A-1 | Location plan of the Premises |
| Drawing A-2 | Layout plan of the Premises |
| Drawing A-3 | Ground floor plan of the HKSC |
| Drawing A-4 | Basement floor plan of the HKSC |
| Plan A-1 | Location plan |
| Plan A-1a | Location plan showing the similar application |
| Plan A-2 | Site plan |
| Plans A-3 and A-4 | Site photos |
| Plan A-5 | Existing land uses in the surrounding area |

**PLANNING DEPARTMENT
OCTOBER 2019**